

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

NOVEMBER 2, 2012

LEONARD DAVIS, Judge Presiding

Law Clerk(s): Gabrielle LaHatte
Chief Staff Attorney: Nicole Mitchell

Court Reporter: Shea Sloan
Judicial Assistant: Carrie King

VIRNETX INC. V. APPLE INC.	CIVIL ACTION NO: 6:10-CV-417
ATTORNEYS FOR PLAINTIFF See Sign-In Sheet	JURY TRIAL – DAY 3 ATTORNEYS FOR DEFENDANTS See Sign-In Sheet
On this day, came the parties by their attorneys and the following proceedings were had:	
OPEN: 8:22 AM	ADJOURN: PM

TIME:	MINUTES:
8:22 AM	Preliminary Proceedings: Pretrial matters taken up.
	Austin Curry presented objection to C. Allie slide and testimony. Court and Mr. Curry discussed. Objection overruled.
	Eric Albritton requested to seal Plaintiff's Exhibits PX 139, 144, 145, 146, 147, 148, 150, 575, 576, 151-151.0, 283, 387, 448, 617, 618, 616. Court inquired regarding Plaintiff's exhibit list. Jason Cassady responded. Exhibits sealed.
	Chris Cravey for Defendant addressed the Court regarding objections to exhibits related to inequitable conduct. Mr. Cassady responded. Mr. Cravey agreed that the parties can work on agreements over the weekend. Court addressed the parties regarding agreements. Court requested the Jury be brought into the Courtroom.
8:29 AM	Jury seated in Courtroom.
	Court addressed the jury and provided an outline of proceedings.
	Mr. Cassady submitted Plaintiff's List of Exhibits Admitted 11/1/12 (marked as Plaintiff's Exhibit List #2) and Plaintiff's List of Exhibits Admitted 11/2/12 (marked as Plaintiff's Exhibit List 3). Exhibits admitted.
	Mr. Albritton submitted Defendant's List of Exhibits Admitted 11/2/12 (marked as Defendant's Exhibit List #1). Exhibits admitted.
	Mr. Cassady requested to address the jury regarding context of video deposition testimony to be shown. Court granted request. Mr. Cassady addressed the jury.
	Mr. Cassady called Joe Abuan by video deposition. Video played for the jury.
	Mr. Cassady requested to explain video editing to the jury. Court granted request. Mr. Cassady addressed the jury.

TIME:	MINUTES:
	Mr. Cassady called Howard Ridenour by video deposition. Video played for the jury.
	Mr. Cassady called Justin Wood by video deposition. Video played for the jury.
	Mr. Cassady called Justin Santamaria by video deposition. Video played for the jury.
	Mr. Cassady called Ronak Shah by video deposition. Video played for the jury.
	Mr. Cassady called Gokul Thirumalai by video deposition. Video played for the jury.
	Mr. Cassady called Berkat Tung by video deposition. Video played for the jury.
	Mr. Cassady called Andrew Vyrros by video deposition. Video played for the jury.
	Video testimony concluded.
	Mr. Cawley called Patrick Gates to the witness stand. Witness previously sworn. Direct examination by Mr. Cawley.
	Danny Williams requested to approach the bench. (Bench conference held). Direct examination continued.
	Mr. Cawley passed the witness. Cross examination by Mr. Williams.
	Objection by Mr. Cawley. Requested to approach the bench. (Bench conference held). Cross examination continued.
	Mr. Williams passed the witness. Redirect by Mr. Cawley.
	Mr. Cawley passed the witness. Recross by Mr. Williams.
	Mr. Williams passed the witness. Nothing further from Mr. Cawley.
	Court addressed the jury and requested they pass in their witness question forms. Court advised the jury they may take a short break.
10:38 AM	Jury excused from the Courtroom.
	Court read the jury question to the parties. Court inquired if the parties objected. Mr. Cawley responded. Mr. Albritton responded. Court advised that Plaintiff's witness Mr. Weinstein will be called back to the stand to answer the question. Mr. Cawley and Mr. Cassady responded as to timeframe for witness to arrive at the Courthouse.
	Mr. Cawley advised that Plaintiff will rest its case. Mr. Cassady discussed remaining matters for Plaintiff.
	Mr. Albritton advised that Defendant will have some matters to be addressed later today. Mr. Cawley responded. Mr. Caldwell discussed admission of demonstrative exhibits.
	Mr. Cawley requested that the Court again read the jury question to the parties. Court read the question.
10:43 AM	Court in recess.

TIME:	MINUTES:
10:58 AM	Trial resumed.
	Court inquired regarding agreement on admission of Plaintiff's demonstrative exhibits. Mr. Albritton did not object.
	Mr. Cawley advised the Court that Mr. Weinstein will arrive at the courthouse in 15 minutes.
	Court inquired as to Defendant's first witness. Mr. Williams advised he will call Dr. John Kelly.
	Court requested that Mr. Cawley notify the Court upon Mr. Weinstein's arrival.
11:00 AM	Jury seated in Courtroom.
	Mr. Cawley advised the Court that Plaintiff rests its case.
	Mr. Williams called Dr. John Kelly to the witness stand. Witness previously sworn. Direct examination by Mr. Williams.
	Mr. Caldwell requested to approach the bench. (Bench conference held). Direct examination continued.
	Court addressed the jury and advised will recess for lunch.
11:58 AM	Court in recess.
12:42 PM	Trial Resumed. Jury seated in Courtroom.
	Roy Weinstein on the witness stand.
	Court asked Mr. Weinstein the question from the jury. Mr. Weinstein responded.
	Mr. Cassady declined redirect examination of witness. Recross examination of witness by Mr. Albritton.
	Mr. Albritton passed the witness. Redirect by Mr. Cassady
	Mr. Cassady passed the witness. Recross by Mr. Albritton.
	Mr. Albritton passed the witness. Nothing further from Mr. Cassady.
	Dr. John Kelly back on the witness stand. Continued direct examination by Mr. Williams.
	Mr. Williams passed the witness. Cross examination by Brad Caldwell.
	Mr. Caldwell requested to approach the bench. (Bench conference held). Continued cross examination by Mr. Caldwell.
	Mr. Caldwell passed the witness. Redirect by Mr. Williams.
	Mr. Williams passed the witness. Recross by Mr. Caldwell.
	Mr. Caldwell passed the witness. Redirect by Mr. Williams.
	Mr. Williams passed the witness. Nothing further from Mr. Caldwell.

TIME:	MINUTES:
	Court addressed the jury and requested they pass in their witness question forms. Court advised the jury that they may take a break.
3:00 PM	Jury excused from the Courtroom.
	Court read the jury question to the parties. Court inquired if the parties objected. Mr. Cawley responded. Mr. Albritton responded. Court advised the question will not be asked.
3:02 PM	Court in recess.
3:18 PM	Trial resumed. Jury seated in courtroom.
	John Desmarais called Dr. Peter Alexander to the witness stand. Witness previously sworn. Direct examination by Mr. Desmarais. Mr. Desmarais offered the witness as an expert. Mr. Desmarais offered Defendants' demonstrative exhibits Alexander 1-107, and without objection, exhibits admitted.
	Mr. Desmarais requested to provide copies of Defendant's Exhibit DX-J 144 to the jury. Court requested to review the exhibit; exhibit tendered. Court advised Mr. Desmarais to use the overhead projector. Continued direct examination by Mr. Desmarais.
	Court inquired of Mr. Desmarais as to length of time until end of direct examination. Mr. Desmarais responded. Court inquired of jury if they wished to stay after 5:00 pm to allow Mr. Desmarais to complete direct examination. Majority of jury wished to stay. Court advised Mr. Desmarais to continue examination.
	Continued direct examination by Mr. Desmarais.
	Mr. Desmarais passed the witness. Court and Mr. Desmarais discussed end of direct.
	Court addressed the jury and dismissed them until Monday.
5:31 PM	Jury excused from the Courtroom.
	Court addressed the parties and gave them their times. Plaintiff has used 9 hours and 29 minutes. Defendant has used 9 hours and 26 minutes.
	Court inquired regarding additional witnesses. Mr. Cawley responded. Mr. Albritton responded.
	Court discussed jury charge. Asked the parties to review jury charge over the weekend. Mr. Desmarais responded. Court and Mr. Desmarais discussed defenses. Mr. Cawley responded.
5:35 PM	There being nothing further, Court adjourned.